Finance Canada

News Release

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DRAFT HST AND GST REGULATIONS AND LEGISLATION TABLED

Secretary of State (Finance) Doug Peters today tabled on behalf of the Minister of Finance, Paul Martin, draft regulations and a Notice of Ways and Means Motion concerning the Harmonized Sales Tax (HST) and Goods and Services Tax (GST).

The draft regulations reflect certain changes to the GST and to the implementation of the HST. Some changes released today also reflect previously announced amendments to those regulations. The following draft regulations were released:

- *Place of Supply (GST/HST) Regulations*;
- *Specified Motor Vehicle (GST/HST) Regulations*;
- *Automobile Operating Expense Benefit (GST/HST) Regulations*;
- *Regulations Amending the Input Tax Credit Information Regulations*;
- *Regulations Amending the Streamlined Accounting (GST) Regulations*;
- *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*;
- *Property Supplied by Auction (GST/HST) Regulations*; and
- *Regulations Amending the Federal Sales Tax New Housing Rebate Regulations*.

The Minister also tabled a Notice of Ways and Means Motion which proposes technical amendments to the *Excise Tax Act*. These amendments in large part respond to specific concerns expressed by industry in the course of consultations held throughout the harmonization process. The proposed amendments would:

- simplify the GST and HST treatment of promotional allowances;
- add a provision to zero-rate the supply to registered air carriers of air navigation services supplied by NAV CANADA in relation to international flights;
- enable registrants in certain circumstances to accelerate a change to a more frequent filing period under the HST, to address any change in their cash flow position resulting from the HST;

- enable registrants using a streamlined accounting method to accelerate a change to the general rules for determining net tax under the HST;

- clarify the transition rules for the partial rebate of the provincial component of the HST for residential complexes situated in Nova Scotia;

- simplify the transitional rules for leases provided together with services where the transaction straddles the April 1, 1997 implementation date of the HST and clarify the application of certain of these transition rules; and

- supplement the rules set out in the regulations released today for calculating net tax under the HST for selected listed financial institutions.

Minister Martin noted that today's announcement furthers the governments' efforts to harmonize the federal and provincial sales taxes in the participating provinces.

Details of the proposed measures are set out in the attached notes and in the accompanying publication containing the draft regulations and amendments to the *Excise Tax Act*. Copies of the Draft Regulations are available from the Department of Finance Distribution Centre (613 943-8665) at a cost of $10.

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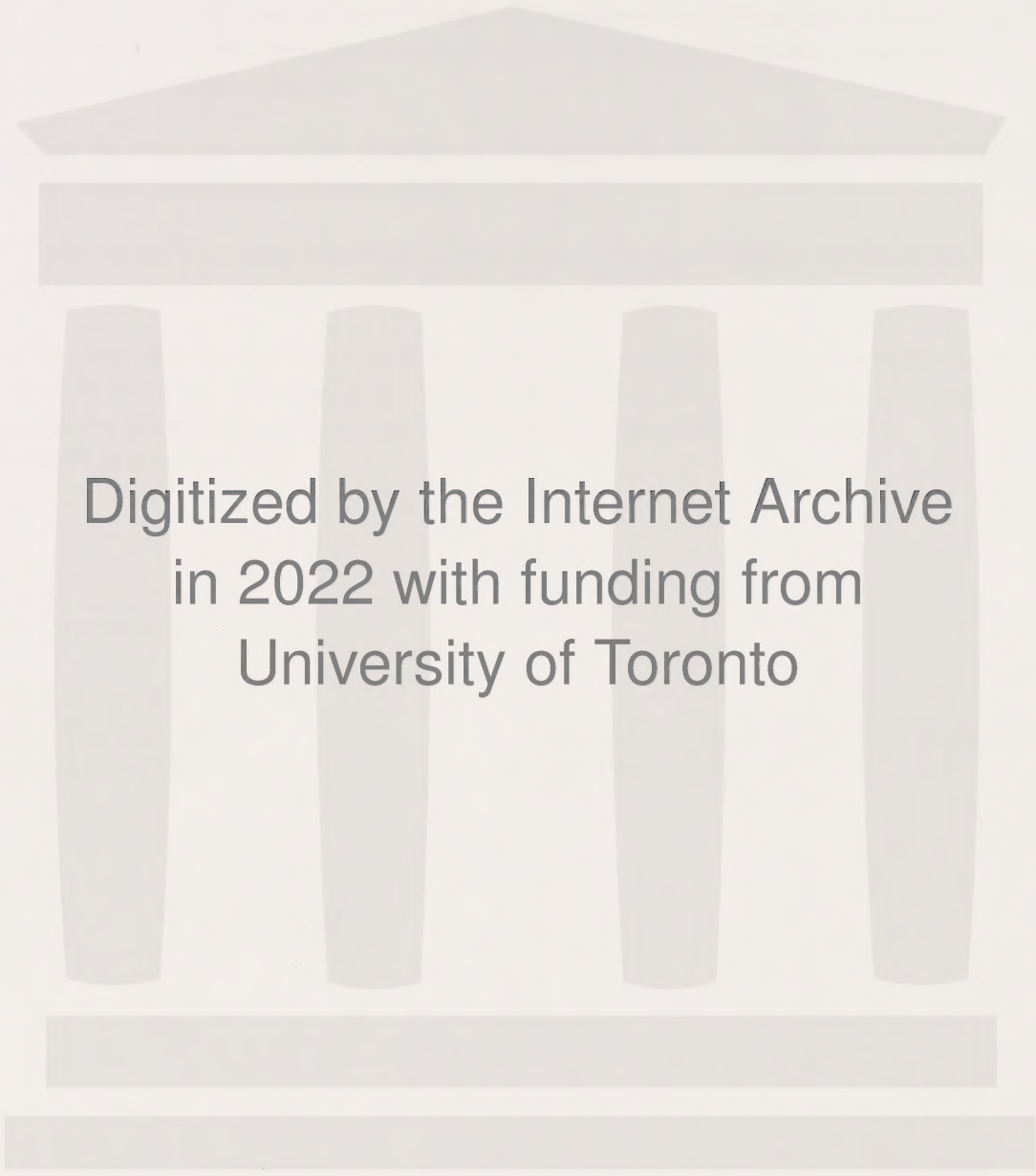
Press release also available on Internet at
http://www.fin.gc.ca/

NOTICE OF WAYS AND MEANS MOTION TO AMEND THE EXCISE TAX ACT

That it is expedient to amend the Excise Tax Act in accordance with the proposals set out in the attached notes and accompanying publication entitled "Draft Regulations and Legislation Relating to the HST and GST" dated March 1997.



Notes on HST and GST Draft Regulations and Legislation

Place of Supply of Specified Property and Services

Under section 3 of Part IX of Schedule IX to the *Excise Tax Act*, a supply may be prescribed by regulation to be made in a particular province for the purposes of the HST. If a taxable supply (other than a zero-rated supply) is made in a participating province by a registrant, the registrant is required to collect the 15 per-cent HST. On the other hand, if a taxable supply (other than a zero-rated supply) is made in a non-participating province by a registrant, the registrant is required to collect the 7 per-cent GST. The *Place of Supply (GST/HST) Regulations* are introduced to set out the rules for determining when supplies of the following property and services are regarded as made in a participating province:

- the service of arranging for the release of imported goods;
- leased railway rolling stock;
- memberships supplied to individuals;
- repair, maintenance and other services relating to tangible personal property;
- trustee services relating to registered retirement or education savings plans or registered retirement income funds;
- 1-900 telephone services;
- Internet access and remote technical support services and electronic mail services provided by means of telecommunications; and
- air navigation services.

These Regulations will be effective as of April 1, 1997.

Release of Imported Goods

The draft Regulations provide that the place of supply of a service of arranging for the release of imported goods is made in a province if the goods are situated in the province at the time of their release. This would encompass gathering relevant information, completing the appropriate documentation (e.g., documentation for release, the accounting package and any necessary amending documents) and submitting the documentation to Canada Customs. This is a fairer and more effective rule than basing the place of supply on where the service is performed in view of the fact that these services may be performed electronically from centralized locations.

Leased Railway Rolling Stock

For HST purposes, the general rule for determining the place of a supply of tangible personal property by way of lease for more than three months is based on where the property is ordinarily located at the beginning of each lease interval. Under this rule, it would be difficult for lessors of railway rolling stock to determine the ordinary location of railway cars used in interprovincial or international service.

A special place of supply rule is proposed for supplies otherwise than by way of sale of railway rolling stock based on where the property is delivered or made available to the recipient of the supply. If continuous possession or use of a railway car is given by the supplier to a recipient throughout a period under more than one successive agreement, the supply under each of the agreements will be regarded as made where the property was delivered or made available under the first of those agreements.

Memberships Supplied to Individuals

Consistent with the announcement in the October 23, 1996 Technical Paper on the HST, a supply to an individual of a membership that can be exercised otherwise than exclusively in one province will be regarded as made in the province in which the individual's mailing address is located.

Repair, Maintenance and other Services Relating to Tangible Personal Property

The October 23, 1996 Technical Paper set out a special place-of-supply rule for repair and other services in respect of tangible personal property. This rule has been refined and expanded to simplify compliance for service providers.

The draft Regulations provide that where a supplier receives tangible personal property of another person for the purpose of repairing, maintaining, cleaning, adjusting or altering the property, the supply of the service, and of any goods such as parts supplied in conjunction with the service, is made in the province in which the tangible personal property is delivered to the recipient of the supply of the service after the service is performed.

Also, the Regulations provide that where a supplier receives tangible personal property, such as exposed film, of another person for the purpose of producing a negative, transparency, photographic print or other photographic-related good, the supply is made in the province in which the photographic-related good is delivered to the recipient of the supply of the service.

Trustee Services Relating to Registered Savings Plans and Income Funds

The draft Regulations set out a special place-of-supply rule for services supplied by a trustee in respect of a trust governed by a Registered Retirement Savings Plan, Registered Retirement Income Fund or Registered Education Savings Plan.

The place of supply of these services, which include annual administration and set-up and termination services, whether supplied to the trust, to the annuitant or to the subscriber, will be determined based on the annuitant's mailing address or, in the case of a Registered Education Savings Plan, the subscriber's mailing address.

1-900 Telephone Services

As proposed in the October 23, 1996 Technical Paper, the draft Regulations provide that a service provided by telephone and accessed by calling a 1-900 (or 1-976) number will be regarded as made in a particular province if the telephone call originates in that province.

Internet Access and Services Provided by Means of Telecommunications

The draft regulations provide a place-of-supply rule for the following:

- access to the Internet;
- a technical support service, provided by means of telecommunications, that relates to the operation or use of computer hardware or software; and
- a service involving electronic storage of information and computer-to-computer transfer of information.

In general, these will be regarded as supplied where the end-user (i.e., the person who acquires the service or access otherwise than for re-supply) is ordinarily located when accessing the Internet or receiving the service. If the service or Internet access is made available to more than one end-user, the service will be regarded as performed, or the right of access exercisable, in part where each of the end-users is ordinarily located when receiving the service or accessing the Internet. If this results in the service being considered to be performed, or the right exercisable, in more than one province, the place-of-supply rules in Parts III and V of Schedule IX will apply to determine where the supply is made.

If, however, the supplier does not maintain sufficient information to determine the location of the end-user or users and it is not the normal business practice of the supplier to obtain information sufficient to determine that location (e.g., where the supplier sells the service to a person who resells it to end-users unknown to the first supplier), the place of supply will be based on the mailing address of the recipient of the supply (i.e., the mailing address of the re-seller in the foregoing example).

Air Navigation Services

A special place of supply rule is required for air navigation services which air carriers have no choice but to receive and which often span more than one province in respect of a single flight. These services do not lend themselves well to place-of-supply rules based on the place where the service is performed or negotiated.

The draft Regulations provide that a supply of air navigation services, as defined in the *Civil Air Navigation Services Commercialization Act,* will be regarded as made in a particular province if the flight or leg of the flight in respect of which the service is provided begins in that province.

An amendment to the *Excise Tax Act* (described below) is also proposed to zero-rate air navigation services supplied to registered air carriers in relation to international flights.

Promotional Allowances

The current GST treatment of a promotional or merchandising allowance in respect of goods is to treat the amount as consideration for a supply of a service provided by a purchaser of the goods who is the recipient of the allowance to the vendor of the goods who is providing the allowance. This treatment could result in additional complexity for businesses under a system where some, but not all, provinces have harmonized their sales taxes with the GST. The complexities relate principally to the need to ascertain where the supply is made for the purposes of determining whether the HST or the GST applies to the allowance.

For example, suppose a promotional allowance is paid by a manufacturer to a national retailer in return for the retailer undertaking certain activities to promote the sale of the manufacturer's products in the retailer's outlets across Canada. In this case, it might not be clear where the service is performed for the purposes of the place-of-supply rules.

In addition, the different treatment of amounts that are regarded as price adjustments, such as volume discounts, certain freight or warehouse allowances, and promotional allowances results in complexity and uncertainty for businesses. The dividing line between the different kinds of allowances is often difficult to draw in practice. Also, in some cases, a single amount may be paid or a percentage deducted from the sale price of the goods for a volume or other price discount as well as for promotional activities relating to the goods.

Proposed new section 232.1 of the *Excise Tax Act* would apply where a registrant vendor makes taxable supplies by way of sale of goods and pays, credits or allows a discount to another registrant who acquires the goods, either from that vendor or another person, exclusively for resale in the course of the purchaser's commercial activities. In these circumstances, if the amount were paid, credited or allowed as a discount in return for the promotion of the goods, it would not be regarded as consideration for a supply by the purchaser to the vendor.

If the allowance were taken as a discount on, or credit against, the price of any property or a service sold by the vendor to the purchaser, the value of the consideration for the supply of the property or service would be regarded as the price less the discount or credit. Also, the amount of the discount or credit would be regarded as a reduction in the consideration for the property or service for the purposes of subsection 232(2) of the Act. If the allowance were effected by a payment to, or credit in favour of, the purchaser and not credited against the price of any property or service sold by the vendor to the purchaser, the amount paid or credited would be regarded as a rebate for the purposes of section 181.1 of the Act.

It is proposed that this measure apply to supplies for which consideration becomes due after March 31, 1997 or is paid after that day without having become due.

Air Navigation Services

Air navigation services are among the services currently zero-rated when supplied to unregistered air carriers. An amendment to the *Excise Tax Act* is proposed to also zero-rate air navigation services supplied to registered air carriers in relation to international flights. This measure will ensure that registered and unregistered carriers are placed on an equal competitive footing.

The amendment would apply to services performed after March 1997.

Specified Motor Vehicles

The draft *Specified Motor Vehicle (GST/HST) Regulations* are introduced, effective April 1, 1997, to:

- prescribe the value of a specified motor vehicle for the purposes of calculating the 8 per-cent provincial component of the HST in circumstances where the vehicle is brought into a participating province either from a non-participating province or from outside Canada; and

- prescribe the manner in which the 8 per-cent provincial component of the HST imposed on specified motor vehicles imported or brought into a participating province is required to be paid.

Prescribed Value

In the case of a specified motor vehicle brought into a participating province from a non-participating province or from outside Canada, the *Excise Tax Act* provides that the 8 per-cent provincial component of the HST be calculated on a prescribed value.

Under these Regulations, the prescribed value of a specified motor vehicle in these circumstances will be the value that would be attributed to the vehicle by the provincial licensing authority for purposes of calculating the special provincial levy (referred to as "specified provincial tax" in the Regulations) if, at the time of registration of the vehicle, that levy were payable in respect of the vehicle. Generally, the "specified provincial tax" will apply to a motor vehicle in circumstances where the vehicle has been purchased without it being subject to the GST or HST (e.g., where the vehicle was purchased through a private sale). Therefore, the 8 per-cent provincial component of the HST will be collected by the provincial licensing authority which will calculate the tax on the same value as would be the case had the vehicle been subject to the special provincial levy.

Prescribed Manner of Payment of Tax

The 8 per-cent provincial component of the HST imposed on specified motor vehicles imported or brought into a participating province is required to be paid to the Receiver General in a prescribed manner. These Regulations provide that the prescribed manner in these circumstances is by payment of the 8 per-cent provincial component of the HST to the provincial licensing authority. This is the provincial department or agency with which the vehicle is registered and that is authorized to collect a specified provincial tax in respect of motor vehicles acquired by way of private sale. The provincial authority will collect the 8 per-cent provincial component of the HST in its capacity as agent of the federal government.

Automobile Operating Expense Benefit

An automobile operating expense benefit represents the portion of operating expenses, such as gas, repairs and insurance, that is paid by an employer to an employee, or by a corporation to a shareholder, and is attributable to the employee's or the shareholder's personal use of an automobile.

While the benefit must be included in the employee's or shareholder's income for income tax purposes, the GST calculated on the benefit is required to be remitted by the employer or the corporation.

In the December 10, 1992 Department of Finance press release, it was announced that the GST treatment of the automobile operating expense benefit would be simplified for the 1993 and subsequent taxation years. Under the simplified method, an employer or a corporation is able to calculate the GST on the total benefit by applying a prescribed percentage of 5 per cent, as opposed to the normal rate of 7 per cent. The lower percentage reflects the fact that a portion of the total automobile operating expense benefit reported for income tax purposes relates to GST-exempt expenses, such as insurance.

The draft *Automobile Operating Expense Benefit (GST/HST) Regulations,* which were originally released on March 30, 1993, are amended to provide for a prescribed rate of 11 per cent in circumstances where the HST applies. The HST rate is 15 per cent as of April 1, 1997. The prescribed rate of 11 per cent reflects the fact that a component of the benefit includes HST-exempt supplies, such as insurance. For the 1997 taxation year, a special transitional rate of 9.5 per cent is prescribed since the HST will be in effect for only three-quarters of 1997.

The rate of 9.5 per cent for 1997 and 11 per cent for subsequent years applies where, in the case of an employee, the last establishment of the employer at which the employee ordinarily worked or to which the employee ordinarily reported in the year in relation to that employment is located in a participating province (i.e., New Brunswick, Nova Scotia or Newfoundland), and, in the case of a shareholder, the shareholder is resident in a participating province at the end of the year.

The 5 per-cent rate will continue to apply in any other case where the GST is required to be remitted by the employer or the corporation in respect of an automobile operating expense benefit.

Input Credit Information Requirements

The *Input Tax Credit Information (GST/HST) Regulations* prescribe the information requirements necessary to support an input tax credit claim.

Subparagraph 3(*b*)(iv) of these Regulations is modified to ensure that, effective April 1, 1997 where the amount paid or payable for supplies includes the amount of tax payable, the information requirements also include a requirement to indicate the rate at which tax has been paid or is payable. This additional information will enable the recipient to determine the actual amount of tax charged.

These Regulations also reflect previously announced amendments, which permit an invoice or receipt issued by an intermediary who has made a supply on behalf of a principal to suffice as evidence to support an input tax credit claim of the recipient.

Transitional Rules Under the HST

Change of Reporting Periods

Sections 246 and 247 of the *Excise Tax Act* set out the rules that permit registrants who are reporting on an annual or quarterly basis to elect to file on a quarterly or monthly basis. Under these rules, such a change in reporting period must take effect on the first day of a fiscal year of the person.

It is proposed that any person who is registered as of April 1, 1997 and is a quarterly filer resident in a participating province be able to make an election to file on a monthly basis without having to wait until the beginning of their next fiscal year. An election to file on a monthly basis could take effect on the first day of any fiscal quarter of the registrant that begins on or after April 1, 1997 and before April 1, 1998.

Similarly, any person who is a registered annual filer as of April 1, 1997 and who is resident in a participating province could elect to file on a quarterly or monthly basis as of the first day of any fiscal quarter that begins on or after April 1, 1997 and before April 1, 1998.

In the case of an annual filer who elects to change to a quarterly or monthly reporting period effective after the beginning of the person's fiscal year, the period beginning on the first day of that fiscal year and ending immediately before the fiscal quarter in which the election becomes effective will be deemed to be a separate reporting period for which the person would be required to file a separate return within one month following the end of that period.

All elections to file quarterly or monthly would have to be made in the usual prescribed form and manner and be filed within the same time frames as required under existing section 250 except that, in these cases, they would specify the effective date as the first day of a fiscal quarter or fiscal month as opposed to a fiscal year.

This transitional measure will allow registrants in participating provinces who are generally in refund positions (e.g., farmers and fishermen) to accelerate the receipt of refunds and mitigate any possible cash-flow implications of harmonization.

New Housing Rebate for Residences in Nova Scotia

The *Excise Tax Act* provides for a partial rebate of the provincial component of the HST paid by a purchaser of a qualifying new residence that is for use in Nova Scotia as the primary place of residence of the individual or a relation of the individual. A partial rebate of the provincial component of the HST is also provided to an individual who purchases a share in a co-operative housing corporation for the purpose of using a new residential unit in a residential complex of the corporation that is situated in Nova Scotia as the primary place of residence of the individual or a relation of the individual.

Amendments are proposed to clarify that the rebate in respect of a new residential building situated on land leased by the purchaser of the building from the builder will only be available where the builder was required to self-assess the provincial component of the HST. This means that possession of the residence was transferred to the purchaser after March 1997 otherwise than under a written agreement

between the builder and purchaser entered into on or before October 23, 1996 (the announcement date of the HST). In the case of an individual who has purchased a share in a co-operative housing corporation, the partial rebate would only be available where the co-operative housing corporation paid the provincial component of the HST in respect of a taxable supply to the corporation of the complex.

Residences Sold Under Pre-announcement Date Agreement

Amendments are proposed to subsections 351(1) and (2) of the *Excise Tax Act*, effective April 1, 1997. These provisions grandfather from the provincial component of the HST sales of new residences under agreements in writing entered into on or before October 23, 1996, the announcement date of the HST. The wording is modified to clarify that the grandfathering applies equally to sales of only the building in which the residential unit is located, which occurs when the purchaser leases the land on which the building is situated from the builder instead of also purchasing the land. In these circumstances, the sale of the building itself is exempt but, absent this grandfathering rule, the builder would have to self-assess the provincial component of the HST under section 191 of the Act upon giving possession of the residential unit to the purchaser after March 1997. It is proposed that subsection 351(1) to be amended to ensure that where possession is given under an agreement in writing between the builder and the purchaser entered into on or before October 23, 1996, the builder will not have to self-assess the provincial component of the HST.

It is also proposed that paragraph 351(1)(*c*) be amended to ensure that grandfathering is available in the above circumstances where the builder is deemed under subsection 191(1) to have made a supply of the complex in which the unit is situated at any time as a consequence of giving possession thereof to the purchaser of the unit. The existing wording refers only to a deemed supply under that subsection made "before" such possession is given.

A consequential amendment is also proposed to subsection 351(2) to delete the specific reference to the sale of a single unit residential complex so that it also refers to a sale described above.

Transfer of Goods Before Implementation Date

Amendments are proposed to subsections 352(1) and (2) of the *Excise Tax Act*, which are intended to grandfather from the provincial component of the HST sales in Canada, and imported taxable supplies, of goods that are delivered to the purchaser or the ownership of which is transferred to the purchaser, before April 1, 1997 (the implementation date of the HST) in accordance with a written agreement entered into before that day. It is proposed that the subsections be amended to refer to this day as opposed to the "announcement date", which is October 23, 1996. This is consistent with the transition rules set out in the Harmonized Sales Tax Technical Paper released on October 23, 1996.

An amendment is also proposed to add new subsection 352(1.1) to the Act to ensure that if provincial retail sales tax applied prior to the implementation date for a province to a sale of goods resulting from the exercise after that implementation date of an option to purchase the goods contained in a lease, the provincial component of the HST does not also apply to the sale.

Leases Provided Together with Services

The *Excise Tax Act* provides generally that, where a taxable supply by way of lease, licence or similar arrangement is made in a participating province or, in some cases, in a non-participating province to a person who is resident in a participating province and consideration for the supply is attributable to a period after March 1997, the provincial component of the HST will apply. However, the provincial component of the HST is not payable where the payment is attributable to a period that begins before April 1, 1997 and ends before April 30, 1997.

The latter exception could lead to some difficulty where a supply of a service is provided together with a lease of property. The transitional rules generally provide that HST is payable on the portion of the payment attributable to services performed after March 1997. However, the payment relating to the lease of the property for the period ending before April 30 would not be subject to the provincial component of the HST but may be subject to provincial retail sales tax (PST).

An amendment is proposed that where a lease of property is provided together with a supply of a service and the charges for the lease and for the service are included in the same invoice, HST is to be applied to the portion of the lease payment attributable to the period after March 1997, to be consistent with the application of the HST to the portion of the payment relating to the services performed after March 1997. For example, if a person were billed, in advance, in March 1997 for the rental of a telephone and for a telecommunication service for the period of March 15, 1997 to April 14, 1997, the applicable PST would be charged on the portion of the payment relating to the period in March and HST on the portion of the payment relating to the period in April.

Delivery Upon Exercise of Option

An amendment to the *Excise Tax Act* is proposed to provide, for greater certainty, that where a person who is a lessee under a lease of goods exercises an option contained in the lease to purchase the goods while retaining physical possession of the goods, the place and time of delivery of the goods in relation to the purchase is the place and time at which the person begins to have possession as purchaser and not as lessee. This general rule would apply, as of April 1, 1997, for all purposes of Part IX of the Act.

Streamlined Accounting Methods under the HST

The *Streamlined Accounting (GST) Regulations* provide optional simplified methods of calculating net GST liability for small businesses and certain public service bodies (municipalities, universities and colleges, schools, hospitals and qualifying non-profit organizations). The Streamlined Accounting Quick Method (the "Quick Method") is provided for eligible small businesses and the "Special Quick Method" is provided for eligible public service bodies.

These methods will continue to be available after April 1, 1997, the implementation date of the HST. However, some modifications to the rules are necessary to address the fact that, in certain circumstances, registrants (located both inside and outside the participating provinces) using one of these methods will be making sales and/or purchases that will be subject to tax at the HST rate of 15 per cent while others may be taxed at the 7 per-cent GST rate.

The draft amendments to the Regulations provide for new remittance rates for registrants using the Quick Method and the Special Quick Method. The remittance rates vary depending on the location of the permanent establishment (or, in the case of municipalities, universities, schools and hospitals, the location of the entity) from which the supply is made and the place of the supply.

The new remittance rates for small businesses using the Quick Method are set out in amended subsection 15(5) of the Regulations. The new remittance rates for eligible public service bodies using the Special Quick Method are set out in amended subsection 19(3) of the Regulations.

Any registrant in Canada that has elected to use the Quick Method or Special Quick Method and that makes supplies only in participating provinces or only in non-participating provinces will remit tax at only one rate. For instance, registrants using the Quick Method who are located in non-participating provinces and make supplies only in those provinces will continue to remit tax at the existing remittance rates of either 2.5 per cent or 5 per cent. Registrants using the Quick Method who are located in participating provinces and make supplies only in those provinces will be required to remit tax at a new remittance rate of either 5.4 per cent or 10.7 per cent.

The Regulations are amended to provide that registrants that are using the Quick Method or the Special Quick Method on April 1, 1997, and that make supplies both inside and outside the participating provinces, through either a permanent establishment in a participating province or a permanent establishment outside a participating province, will be required to account for tax at two different remittance rates in respect of supplies for which consideration becomes due or is paid without having become due on or after that day.

Pursuant to new subparagraph 15(5)(*a*)(iii) of the Regulations, where a registrant using the Quick Method after April 1, 1997 makes supplies that are "specified supplies" in a non-participating province through a permanent establishment in a participating province, the registrant will not be required to remit any of the tax collected on those specified supplies. The registrant will be entitled to a credit of 2.6 per cent of the net specified supplies (as defined in subsection 15(5.1) of the Regulations) attributable to supplies made in a non-participating province through a permanent establishment in a participating province. This credit is determined under new paragraph (*c*) of the definition of element C of the formula set out in subsection 17(1) of the Regulations. The credit is necessary to account for the fact that such registrants generally will be paying tax at the rate of 15 per cent on their inputs but collecting tax at the rate of only 7 per cent on their supplies.

New subsection 15(5.01) of the Regulations, which applies to registrants using the Quick Method, and new subsection 21(5) of the Regulations, for those using the Special Quick Method, provides that where supplies made through a permanent establishment in or outside a participating province are made either all or substantially all inside or all or substantially all outside the participating provinces, registrants may remit tax in respect of all supplies made through that permanent establishment at one rate (i.e., at the remittance rate which would apply to all or substantially all the supplies made by that registrant through that permanent establishment).

In addition, new paragraph 15(5)(*b*) relating to the Quick Method and new subsection 21(4) relating to the Special Quick Method provide that where a registrant is making supplies of printed books or other items in respect of which the registrant is entitled to a deduction under subsection 234(3) of the *Excise Tax Act*, the registrant will be required to remit tax on such sales at the remittance rate that would

apply to those supplies if they were made in a non-participating province through a permanent establishment in a non-participating province.

Where a registrant using either the Quick Method or the Special Quick Method determines that more than one remittance rate applies to supplies made by that registrant through a permanent establishment, a separate determination is required to be made under the formula in subsection 17(1) of the Regulations for the Quick Method, and the formula in subsection 21(1) of the Regulations for the Special Quick Method, for each group of supplies that are subject to a different remittance rate.

The new HST rules for the Quick Method and the Special Quick Method will apply as of April 1, 1997 in respect of consideration that becomes due or is paid without having become due after March 1997.

A special rule is proposed under proposed new section 363.2 of the Act for registrants that are using the Quick Method or the Special Quick Method immediately before April 1, 1997, to permit them to revoke their election to use either method earlier than the one-year period currently required by the Act. Annual filers would be allowed to revoke their election effective as of the first day of any fiscal month beginning within one year after April 1, 1991. Quarterly or monthly filers would be entitled to revoke such an election as of the beginning of any reporting period beginning within one year after April 1, 1997. Where an annual filer revokes an election during a fiscal year, proposed subsection 363.2(2) deems a reporting period to have ended immediately before. The consequence is that the registrant would have to file a return for the period thus ended within one month and remit any net tax payable for that period.

Other Changes to the Streamlined Accounting Rules

Subsection 20(1) of the Regulations is amended, to delete the references to "charity" in the rules under the Special Quick Method. This amendment is consequential to the addition of a special simplified accounting method for charities under section 225.1 of the *Excise Tax Act*. This amendment applies to reporting periods beginning after 1996. However, it should be noted that a "health care facility" (as defined in section 1 of Part II of Schedule V) that is not a charity within the meaning of subsection 123(1) of the Act but is treated as a charity under the existing Special Quick Method will continue to be entitled to use that method.

As a consequence of the trade-in rule set out in subsection 153(4) of the *Excise Tax Act*, the definition of "consideration" in subsection 15(1) of the Regulations is added to ensure that any registrant using the Quick Method or the Special Quick Method is required to include in the consideration for a supply any amount credited to the recipient of the supply in respect of a trade-in accepted as full or partial consideration for that supply. This amendment applies to consideration that becomes due after June 30, 1997 or is paid after that day without having become due.

As a consequence of the introduction of the rules for the HST under Division IV.1 of Part IX of the Act, the definition of "cost" in subsection 15(1) of the Regulations is amended to include amounts of tax that a registrant is required to self-assess under that Division. This amendment is effective April 1, 1997.

The definition of "specified supply" in subsection 15(1) of the Regulations is amended to include a supply made by a registrant who has elected to use the Quick Method and who acts as agent for a principal with whom an election has been made under subsection 177(1.1) of the Act. This amendment provides that a registrant using the Quick Method is required to charge and remit the full amount of tax on a supply made as agent pursuant to an election under subsection 177(1.1) of the Act. A comparable amendment is made in paragraph 19(1)(*h*) of the Regulations to apply to registrants using the Special Quick Method. These amendments apply to supplies made on or after April 1, 1997.

Subsection 15(5) of the Regulations is amended to provide that a registrant that resupplies goods for which no tax was paid on the purchases (e.g., they were purchased from a non-registrant) cannot include those supplies in establishing eligibility to remit tax at the lower rate. Where tax has not been paid on most of the goods that are resupplied, a registrant will be required to remit tax at the higher rate available for businesses of that type using the Quick Method. This amendment will apply to consideration that becomes due or is paid without having become due on or after July 1, 1997.

Another amendment to the Special Quick Method deletes the $10,000 minimum threshold on the cost of improvements to real property or capital property. As a result, input tax credits can be claimed in respect of these improvements regardless of their cost. This amendment applies for the purpose of determining net tax for reporting periods ending after March 1997.

The Regulations are also amended to reflect changes previously announced in press releases dated March 30, 1993 and June 1, 1993. As well, the draft Regulations reflect consequential amendments that result from changes previously enacted in legislation.

Selected Listed Financial Institutions

Section 225.2 of the *Excise Tax Act* provides that a selected listed financial institution shall, in determining its net tax for a reporting period, add all positive amounts and deduct all negative amounts in respect of a participating province that are determined under the formula set out in that section. The formula and related provisions is referred to as the "special attribution method".

The draft *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* are introduced effective April 1, 1997, to:

- prescribe listed financial institutions pursuant to paragraph 225.2(1)(*d*) of the Act, thus allowing them to use the special attribution method when calculating their net tax;

- prescribe the rules to determine a selected listed financial institution's percentage for a participating province under the special attribution method;

- prescribe amounts of tax that are excluded from the calculation of a selected listed financial institution's adjustment to net tax for purposes of the provincial component of the HST under the special attribution method, for the purposes of paragraph (*a*) of the description of element A and of the description of element F in the formula set out in subsection 225.2(2) of the Act; and

- prescribe amounts for the purposes of element G of the formula under subsection 225.2(2) of the Act, which are either added or subtracted by a selected listed financial institution when calculating its net tax adjustment in respect of the provincial component of the HST.

Prescribed Financial Institutions

The special attribution method applies to listed financial institutions operating within both participating and non-participating provinces (referred to as "selected listed financial institutions"). Generally, a listed financial institution that is a corporation will be a selected listed financial institution if it allocates corporate taxable income under the rules set out in sections 402 to 405 of the *Income Tax Regulations* both to a participating province and a non-participating province.

However, certain federal crown corporations are not subject to provincial income tax and therefore do not fall within sections 402 to 405 of the *Income Tax Regulations*. Nevertheless, they may be listed financial institutions under the *Excise Tax Act* operating within both participating and non-participating provinces. These crown corporations currently pay the GST and provincial retail sales taxes. Under the HST, they will generally be required to pay the provincial component of the HST.

Therefore, subsection 225.2(1) of the *Excise Tax Act* provides that a listed financial institution described in any of subparagraphs 149(1)(*a*)(i) to (x) of the Act may be prescribed under paragraph 225.2(1)(*d*) to be a selected listed financial institution. Section 2 of the draft *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* prescribes such a listed financial institution to be a selected listed financial institution if it is a corporation that is named in Schedule III of the *Financial Administration Act* and that, under the allocation rules of sections 402 to 405 of the *Income Tax Regulations*, would have taxable income earned in a participating province and a non-participating province if subsection 124(3) and paragraph 149(1)(*d*) of the *Income Tax Act* did not apply and the institution had taxable income for the particular year and the preceding year.

Under the special attribution method, amounts of unrecoverable GST payable by a selected listed financial institution are allocated to participating provinces based on the percentages used to allocate corporate income to the provinces for income tax purposes. The applicable percentage is referred to as the "attribution percentage" for HST purposes.

When determining the attribution percentage for a participating province, depending on the type of its business operations, a corporation that is a prescribed financial institution will either use the specific rules that apply to a specific class of corporations (i.e., banks, insurance corporations or trust and loan corporations) or will use the general rules. Where only part of the business of the corporation falls within a specific class, the corporation may determine its percentage based on the rules for "divided businesses" (see the discussion below on "Divided Businesses").

Rules for Determining the Attribution Percentage for a Participating Province

A selected listed financial institution will use the special attribution method provided in subsection 225.2(2) of the Act to calculate its adjustment to net tax in respect of the 8 per-cent provincial component of the HST. One of the key elements of the formula requires the financial institution to use its attribution percentage for a participating province as determined in accordance with the prescribed rules that apply to financial institutions of that class.

In practice, selected listed financial institutions will determine their attribution percentage for each participating province following the rules prescribed under the Regulations and then determine the aggregate percentage for all participating provinces which they will apply in determining their net tax under the method. They will not have to calculate net tax adjustments for each province separately under the special attribution method since the tax rates for the participating provinces are the same.

Generally, a selected listed financial institution's percentage for a participating province is the percentage calculated for a taxation year. However, for the fiscal year that a person becomes a selected listed financial institution, the institution will be required to calculate the percentage for each reporting period (in the case of a monthly or a quarterly filer) or each fiscal quarter (in the case of an annual filer). The respective period is referred to as the "particular period" in the draft Regulations.

The Regulations deal with the following classes of selected listed financial institutions:

- individuals (defined to include the estate of a deceased individual or a trust);
- corporations (other than insurance corporations, banks, trust corporations and loan corporations) to which general income allocation rules apply;
- insurance corporations;
- banks;
- trust and loan corporations;
- specified partnerships as defined in subsection 225.2(8) of the *Excise Tax Act*; and
- "divided businesses" (a corporation part of the business of which is similar to that of an insurance corporation, bank or trust and loan corporation).

The draft Regulations set out both general rules and specific rules to determine the attribution percentage for a participating province, for each class of selected listed financial institutions.

One of the general rules that apply to all classes of selected listed financial institutions is the rule that applies to a financial institution that is a member of a partnership. Section 6 of the draft Regulations provides that a selected listed financial institution that is a member of a partnership must not include in its gross revenue any portion of the total gross revenue of the partnership. Similarly, the financial institution must not include in the amount of salaries and wages paid by the financial institution any portion of the salaries and wages paid to employees of the partnership. This rule departs from the rules in the *Income Tax Regulations* in that, under those Regulations, in calculating the percentage for a province, the corporate partners are required to include a portion of gross revenue and salaries and wages of the employees of the partnership in proportion to the corporation's share of income or loss from the partnership.

Rules for Individuals

Generally, in the case of a sole proprietorship that is a selected listed financial institution, the rules for determining the percentage for a participating province parallel those in section 2603 of the *Income Tax Regulations*.

Under subsection 7(2) of the draft *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, an individual's percentage for a participating province in a particular period is equal to one-half of the total of the percentage of gross revenue and the percentage of salaries and wages paid by the individual to employees of a permanent establishment in that province. The gross revenue that

is attributable to permanent establishments outside Canada is excluded from the base for the purposes of calculating the percentage of gross revenue that is attributable to a participating province. Similarly, only salaries and wages paid by the individual to employees of permanent establishments of the individual in Canada are included in the base.

In order to attribute gross revenue or salaries and wages to a province there must be a permanent establishment of the financial institution in that province. Therefore, if the financial institution does not have a permanent establishment in a participating province in a particular period, the financial institution's percentage for that participating province for the particular period will be nil. In the case of individuals, the draft Regulations provide that the term "permanent establishment" has the meaning assigned by subsection 2600(2) of the *Income Tax Regulations*.

Under the draft Regulations, the word "individual" is defined to include the estate of a deceased individual or a trust. Consequently, the rules for individuals will apply to a selected listed financial institution that is an estate of a deceased individual or a trust.

General Rules for Corporations

Section 402 of the *Income Tax Regulations* provides general rules for a corporation to allocate taxable income earned in a year to particular provinces. Section 8 of the draft *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, in most part, parallels section 402 of the *Income Tax Regulations*.

Under subsection 8(2) of the draft *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, a corporation's percentage for a participating province in a particular period is equal to one-half of the total of the percentage of gross revenue and the percentage of salaries and wages paid by the corporation to employees of the permanent establishment in that province. The gross revenue that is attributable to permanent establishments outside Canada is excluded from the base for the purposes of calculating the percentage of gross revenue that is attributable to a participating province. Similarly, only salaries and wages paid by the corporation to employees of its permanent establishments in Canada are included in the base.

In circumstances where the total gross revenue in Canada for a particular period of the financial institution is nil, the financial institution's percentage will be the percentage that the total of salaries and wages paid to employees of its permanent establishments in the participating province is of the total of salaries and wages paid in the particular period by the corporation to employees of all its permanent establishments in Canada. Alternatively, where the total of the salaries and wages paid in the particular period by the financial institution to employees of its permanent establishments in Canada is nil, the percentage that its gross revenue reasonably attributable to its permanent establishments in the participating province is of its total gross revenue in Canada will be the percentage for the province.

While there are specific rules for insurance corporations, banks, trust and loan corporations, some of the general rules for corporations will also apply to them. For example, whether it is an insurance corporation, bank or any other corporation, where a financial institution does not have a permanent establishment in a participating province in a particular period, the institution's percentage for that participating province for the particular period will be nil.

Insurance Corporations

The rules that an insurance corporation that is a selected listed financial institution will use to calculate its percentage for a participating province mirror the rules for such corporations set out in section 403 of the *Income Tax Regulations* except that net premiums in respect of insurance on property situated outside Canada and net premiums in respect of insurance (other than on property) from contracts with persons not resident in Canada are excluded from the calculation.

Therefore, an insurance corporation's percentage for a participating province in a particular period will be the percentage that the total of net premiums for the period in respect of insurance on property situated in that province and non-property net premiums from contracts with residents in that province is of the total of its net premiums for the period in respect of insurance on property situated in Canada and non-property net premiums from contracts with residents in Canada.

Banks

The rules that a bank will use to calculate its percentage for a participating province mirror the rules for such a corporation set out in section 404 of the *Income Tax Regulations* except that loans and deposits of its permanent establishments outside Canada and salaries and wages paid by the bank to employees of its permanent establishments outside Canada are excluded from the calculation.

Therefore a bank's percentage for a participating province in a particular period will be one-third of the total of:

(a) the percentage that the total of salaries and wages paid by the bank in that period to employees of its permanent establishments in that province is of the total of salaries and wages paid by the bank in that period to employees of its permanent establishments in Canada; and

(b) twice the percentage that the total amount of loans and deposits of its permanent establishments in that province for that period is of the total amount of loans and deposits of its permanent establishments in Canada for that period.

As stated above, the particular period for which the percentage is calculated could be a fiscal month, fiscal quarter or a taxation year. Consequently, unlike under the *Income Tax Regulations* where the amount of loans and amount of deposits are calculated based on a taxation-year basis, under these Regulations, the amount of loans and amount of deposits is calculated based on the number of months ending in the particular period.

Trust and Loan Corporations

The rules for trust and loan corporations mirror the rules for such corporations set out in section 405 of the *Income Tax Regulations* except for the fact that under these draft Regulations the total gross revenue of the corporation excludes the gross revenue of its permanent establishments outside Canada.

For example, the percentage for a participating province in a particular period of a loan corporation will be the percentage that the gross revenue for that period of its permanent establishments in that province is of the total gross revenue for that period of its permanent establishments in Canada.

Specified Partnerships

In the draft Regulations, a "specified partnership" has the meaning assigned by subsection 225.2(8) of the Act. That definition provides that a "specified partnership" is a partnership that has at least one member who has taxable income (or income in the case of a member that is an individual, the estate of a deceased individual or a trust) earned in a participating province from a business carried on through the partnership, and at least one member (whether or not the same member) who has taxable income (or income in the case of a member that is an individual, the estate of a deceased individual or a trust) earned in a non-participating province from such a business. Thus, the members of a specified partnership can be individuals, corporations or partnerships.

Under the draft Regulations, the rules for individuals apply to a "specified partnership" where all the members of the partnership are individuals. In any other case, the rules prescribed for corporations will determine the partnership's percentage for a participating province.

Divided Businesses

The rules for a divided business will apply to a corporation (referred to here as a "general corporation") that is not a bank, insurance corporation, trust corporation, loan corporation or a trust and loan corporation, which are all subject to specific rules. However, where a general corporation operates part of its business in the manner of one of the aforementioned corporations, the corporation and the Minister of National Revenue may agree that the corporation's percentage for a participating province for a particular period will be the weighted average of the percentages determined by applying the specific rules that apply to that part of the business' operations normally conducted by a bank, insurance company or a trust and loan business and applying the general rules to the remaining part of the business. In any other case, the corporation will be required to follow the general rules for corporations.

Prescribed Amounts of Tax

Under the formula for determining the adjustment to the net tax of a selected listed financial institution provided in subsection 225.2(2) of the Act, provision is made for adjustments in respect of prescribed amounts of tax.

The draft Regulations prescribe certain amounts for the purposes of paragraph (*a*) of the description of element A, and paragraph (*a*) of the description of element F, of the formula in subsection 225.2(2). For these purposes, a prescribed amount of tax will include amounts of tax payable or paid by an insurer in respect of property or services acquired, imported or brought into a participating province exclusively and directly for consumption, use or supply in the course of investigating, settling or defending an insurance claim, other than a claim in respect of accident and sickness or life insurance.

This adjustment has the effect of removing from the scope of the special attribution method taxes paid directly and exclusively in respect of the settlement of claims in relation to property and casualty insurance. This reflects the fact that property and services acquired in relation to the settlement of such claims are normally sourced locally and it is appropriate that they be subject to the general HST rules including the self-assessment rules in section 218.1 and Division IV.1 of Part IX of the Act. The taxes paid in respect of overhead expenses, accident and sickness or life insurance claims and other

non-claim-related costs will be required to be included in the calculation of the adjustment in respect of the provincial component of tax under the special attribution method under subsection 225.2(2).

For the purposes of paragraph (*a*) of the description of element A, and paragraph (*a*) of the description of element F, of the formula set out in subsection 225.2(2), a prescribed amount of tax will also include amounts of tax paid or payable by a selected listed financial institution in respect of a supply or importation of property referred to in subsection 259.1(2) of the Act (i.e., printed books, etc.).

Prescribed Amounts

Element G of the formula in subsection 225.2(2) of the Act requires a selected listed financial institution to make specific adjustments when calculating its addition or deduction from net tax in respect of the provincial component of the HST. The adjustments under element G are provided for in the Regulations to take into account the transitional adjustments and transactions of a special nature.

There are two formulae set out in the Regulations under which the prescribed amounts under element G are calculated. In general, each allows the financial institution to back out an amount that is included in the calculation under the elements of the formula in subsection 225.2(2) other than element G of that formula. The total of the positive or negative amounts derived from the two formulae in section 15 of the Regulations is included in element G.

The following amounts are prescribed under section 15 of the Regulations to be part of the component of element G:

- an amount as or on account of tax that is refunded or credited to, or adjusted in favour of, the financial institution under section 232 (including an amount refunded, credited or adjusted by virtue of section 233 of the Act in relation to patronage dividends paid to the financial institution);

- the amount of any rebate paid to the financial institution by a registrant in respect of a supply made to the financial institution where paragraph 181.1(*f*) of the Act applies (e.g., a manufacturer's rebate);

- an amount as or on account of a rebate paid to, or credited in favour of, the financial institution under section 252.4 or 252.41 of the Act (i.e., rebates in respect of foreign conventions and installation services);

- an amount rebated, refunded or remitted to the financial institution under any Act of Parliament in respect of an amount paid or payable as or on account of tax under subsection 165(1), section 212 or 218 of the Act (e.g., GST paid in error or GST remitted to the financial institution under the *Financial Administration Act*);

- an amount rebated, refunded or remitted to the financial institution under any Act of Parliament other than the *Excise Tax Act* in respect of tax under subsection 165(2) or section 212.1 of the Act (e.g., the provincial component of the HST remitted under the *Financial Administration Act*);

- any input tax credits claimed in respect of a supply that has been grandfathered under section 351 of the Act (e.g., a grandfathered residential complex) or paragraph 356(5)(*b*) of the Act (e.g., grandfathered supplies of admissions);

- an amount of GST included in the description of element A of the formula in subsection 225.2(2) of the Act in respect of property or a service supplied to the financial institution where the actual supply to the institution is grandfathered under the transitional provisions in subdivision c of Division X of Part IX of the Act or where the supply would be so grandfathered if it were made in a participating province (e.g., GST paid after March 1997 but before August 1, 1997 for services performed before April 1, 1997). Also prescribed is an amount of GST that is included in element A and is in respect of a supply or importation where the provincial component of the HST applied but the institution was denied an input tax credit for that tax because of section 351 or paragraph 356(5)(*b*) of the Act (e.g., an expense incurred after March 1997 in the course of making a grandfathered supply described in those provisions).

The following amounts are prescribed under the second formula in section 15 of the Regulations:

- GST required to be self-assessed under subsection 129(6) or 129.1(4) of the Act by a public service body that is a selected listed financial institution;

- an amount of tax deemed to have been paid by the financial institution under paragraph 180(*d*) of the Act (e.g., property purchased from an unregistered non-resident in circumstances where section 180 of the Act applies);

- input tax credits recaptured under subsection 235(1) of the Act (e.g., input tax credits claimed in respect of a leased passenger vehicle where the lease costs exceed the maximum lease costs that are deductible under the *Income Tax Act*) or 236(1) of the Act (e.g., input tax credits claimed in respect of meals and entertainment expenses where the expenses exceed amounts that are deductible under the *Income Tax Act*);

- GST paid before April 1, 1997 in respect of a supply of property or a service to which the provincial component of the HST applies (or would apply if the property or service were supplied, imported or brought into a participating province) under subdivision b of Division X of Part IX of the Act (e.g., a prepayment of GST for services to be performed after March 1997) to the extent that the amount was not included in the description of element A of the formula in subsection 225.2(2) of the Act;

- GST paid or payable before April 1, 1997 in respect of which the financial institution has claimed an input tax credit after March 1997 where the amount of the input tax credit was included in element B of the formula in subsection 225.2(2) of the Act, but the amount of GST paid or payable was not included in element A of that formula (e.g., where a person becomes a registrant after March 1997 and claims an input tax credit in respect of an amount paid prior to April 1997).

Exclusion from Adjustment

Subsection 225.2(3) of the Act excludes certain amounts of tax and certain input tax credits from the calculation under the special attribution method under subsection 225.2(2) of the Act.

An amendment is proposed to subsection 225.2(3) to add, effective April 1, 1997, a new paragraph which would exclude from the calculation under the special attribution method an amount of tax paid or payable by a selected listed financial institution in respect of property or a service acquired, imported or brought in a participating province otherwise than for consumption, use or supply in the course of an endeavour (within the meaning assigned by subsection 141.01(1) of the Act). Therefore, a financial institution must not include in any component of the formula in subsection 225.2(2) an amount of tax paid or payable in respect of property or a service acquired, imported or brought into a participating province for personal consumption or use.

Similar consequential amendments, also with effect from April 1, 1997, are proposed with respect to other provisions of the Act (i.e., paragraphs 218.1(2)(*b*) and 220.04(*b*) and new subsection 363(4) of the Act).

Restriction on rebate, etc.

Pursuant to subsection 169(3) of the Act, generally, a selected listed financial institution is not entitled to any input tax credits in respect of the 8 per-cent provincial component of the HST paid or payable by the financial institution. Instead, the financial institution is allowed to deduct such amounts when determining the net tax adjustments under the special attribution method under subsection 225.2(2) of the Act. The deductions allowed under element F of the formula in subsection 225.2(2) include all amounts in respect of the provincial component of the HST paid or payable by the financial institution. Therefore, an amount of rebate in respect of the provincial component of the HST that a financial institution could otherwise claim under the general provisions of the Act are taken into account in the net tax adjustments made by the financial institution under the special attribution method.

Net tax adjustments in respect of rebates paid or payable to a selected listed financial institution will also be included in element G of the formula provided in subsection 225.2(2) of the Act. The draft Regulations prescribe the rebates that must be taken into account under this element. As a consequence, an amendment to the Act is proposed to add new subsection 263.01(1) to restrict a selected financial institution from claiming a rebate for the amounts already included in the net tax calculation.

Proposed new subsection 263.01(1) would, effective April 1, 1997, restrict a selected listed financial institution from claiming any tax rebate provided in the Act in respect of tax that became payable or was paid under subsection 165(2) or section 212.1 of the Act, except for a rebate under section 252.4 or 252.41 of the Act (e.g., rebates in respect of foreign conventions and installation services).

The proposed restriction on claiming a rebate would apply only in respect of property or a service acquired or imported by the institution for consumption, use or supply in the course of a business of the institution or an adventure or concern in the nature of trade of the institution. Therefore, the restriction will not apply to a selected listed financial institution that is an individual who is claiming, for example, a housing rebate under section 254 of the Act.

Exception for Insurers

The restriction on rebates in proposed new subsection 263.01(1) would not apply to a rebate claimed by a selected listed financial institution that is an insurer for an amount of tax payable or paid by the insurer in respect of property or services acquired or imported exclusively and directly for consumption, use or supply in the course of investigating, settling or defending an insurance claim, other than a claim in respect of accident and sickness or life insurance. These prescribed amounts of tax are excluded from the application of the special attribution method and therefore fall within the general provisions of the Act.

Supply by Auction

New subsections 177(1.2) and (1.3) of the *Excise Tax Act* set out the sales tax treatment of goods sold by auction. Subsection 177(1.2) provides that the tax on goods sold by auction must be collected and remitted by the auctioneer. Subsection 177(1.3) allows, in certain circumstances, an auctioneer and a registered principal to jointly elect to have the auctioneer instead pass back the tax to the principal who would be required to report and remit it.

The election under subsection 177(1.3) is available where all or substantially all of proceeds from the sale of goods on behalf of the principal at the particular auction are attributable to prescribed goods. The draft *Property Supplied By Auction (GST/HST) Regulations* list the goods prescribed for the purposes of this election. These include motor vehicles, flowers, horses and machinery and equipment designed for use in construction, forestry and manufacturing.

It should be noted that the election applies only with respect to sales by auction in respect of which the principal would otherwise be required to collect tax. As a result, the general rules that apply to sales by auction will continue to apply, for example, to personal-use property of the registrant sold by auction.

Federal Sales Tax New Housing Rebate

The *Federal Sales Tax New Housing Rebate Regulations* are amended as a consequence of the addition of subsection 336(5) of the *Excise Tax Act* which grandfathers from the GST the sale of interests in a limited partnership under a fixed-price offering memorandum issued before October 14, 1989, where the partnership was established for the purpose of constructing and renting residential condominium units. In such cases, the builder is required to remit tax equal to 4 per cent of 80 per cent of the subscription price of the interest in the partnership that relates to the unit.

The Regulations are amended to provide that where an FST new housing rebate has been claimed in respect of such supplies under paragraph 3(*b*) of the Regulations, the amount upon which the rebate is calculated is 80 per cent of the subscription price.

This amendment is effective December 17, 1990.